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Before the

**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554**

**PETITION FOR RULE MAKING
or
IMMEDIATE EXECUTIVE ORDER**

In the Matter of:

Processing Application for New Digital Television (DTV) Facilities,)
Granting of Digital Television Construction Permits,)
Granting of NTSC Auxiliary Transmission Facilities,)
Granting of Part 74 Studio Transmitter Link (STL),)
Transmitter Studio Link (TSL) and Intercity Relay (ICR) licenses)
on microwave frequencies for the purposes of serving or establishing)
new Digital Television Service Stations.)

RM: _____

SUMMARY

On behalf of all United States Television Licensees currently operating full power NTSC television stations operating under part 73 of the Rules and Regulations of the Federal Communications Commission, petitioner, Henry B. Ruhwiedel, Chairman of Chapter 26 of the Society of Broadcast Engineers, Treasurer of the Chicago Digital Broadcast Committee, and thirty year veteran of Broadcast engineering, as an individual, hereby requests expedited and automatic grant of part 73 DTV transmission and Part 74 microwave services for STL, TSL and ICR station construction permits and program test authority in order to meet the Federally Mandated implementation for new Digital Television Service within the timetable proposed by the Government for stations capable of construction and operation of such DTV service, on or prior to the Scheduled Dates set forth in the Rules, in order to provide DTV service to a maximum of Citizens without undue delay in Government Processing of such grants and licenses.

NEED ADDRESSED BY PETITION

1. It is apparent that the Government mandate of DTV services and the associated filing and granting procedures of the Federal Communications Commission far exceed the capability of the resources available to process and grant such applications and permits in a timely and expeditious manner. The Commission is already frustrated with the few license applications filed for the early round stations and those other stations that have chosen to begin the DTV service prior to the mandated dates. In short, how can the FCC grant without delay, in less than two years, what took over 50 years to grant for NTSC?

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2. It took over 50 years for the FCC to process and grant the existing NTSC licenses, many of which were delayed years because of the lack of resources available to the FCC to process applications. Indeed the history of the FCC is to elect to freeze applications filing and processing, or to limit the filing time to specific windows of opportunity in order to cope with the normal load of applications.
3. The Granting of thousands of permits and licenses for the new mandated DTV service is beyond the capability of the already overloaded FCC staff and resources .as evidenced by the ever lengthening backlog of applications for Broadcast and Broadcast related services. Even at the low level of applications currently being filed, which will surely become of gargantuan proportion when the remaining thousands of stations begin to file to meet the January 1, 2002 deadline. In short it is highly dubious that the FCC under its present structure can grant any substantial number of permits and licenses in support of DTV, to meet the DTV mandated DTV rollout for all or any significant number of existing NTSC television stations.

REQUEST FOR TEMPORARY RULES CHANGE FOR DTV

1. The FCC already has significant precedent in various services to provide for automatic grant of construction and operating permits. Such grants for DTV would be in the public interest, provide expeditious adoption of Digital Television, allow time for the Commission to review such grants that would be subject to later modification, and allow the maximization of industry facilities and resources to construct and operate the mandated DTV service in support of Federal policy and Law.
2. It is proposed that any currently licensed part 73 full power NTSC facility, following certain guidelines and restrictions enumerated below be allowed to construct and immediately begin transmission and program a digital television service station. That such set aside of the Rules regarding processing of such applications be for the period from the instant this petition is granted, to such future date as the FCC may choose. Petitioner suggests that the closure date be January 1, 2002, to provide a sufficient window of opportunity to allow all stations desirous of construction and operation prior to the mandated deadlines to be able to proceed with all due diligence and speed to meet ~~those~~ mandated deadlines, without encumbrance of administrative delays.

CONDITIONS FOR AUTOMATIC GRANT OF DTV PERMIT

1. Petitioner suggests the following conditions must be met in order for an existing part 73 license holder to qualify for automatic construction and operation of a digital facility after filing for a DTV station permit.
 - A. An DTV application for a new DTV facility must be on file with the FCC.
 - B. The DTV application must be prepared on behalf of an existing operating NTSC stations currently broadcasting more than 12 hours per day or seven days a week.
 - C. The DTV application was prepared by a licensed Professional Engineer in practice in Broadcast applications before the FCC.
 - D. The DTV application must have been prepared in accordance with OET 69 and the Sixth Report and Order or later editions as the Commission may promulgate.
 - E. The proposed DTV application is for the channel assigned in the Sixth Report and Order or as modified or granted by the FCC in response to licensees application for reconsideration of channel assignment.
 - F. The DTV application must be for facilities equal or less than allowed under the Channel Allocation plan and DTV channel assignment. Equal or less shall be determined by the population within the interference zones known to exist under the channel allocation and NTSC service replication parameters used for the DTV allocation.
 - G. DTV Power level and antenna pattern must be determined by contour limited interference criteria of OET 69, under the assumption that all proposed DTV stations are operating at a minimum of 200 KW or power levels above 200 KW for those stations currently assigned such higher power levels.
 - H. The DTV application complies with any applicable international agreements and treaties for those stations that have allocations for which proximity to a Foreign Nation requires such prior coordination.
 - I. The proposed DTV facilities must be within five kilometers of the existing NTSC antenna.
 - J. The licensee is currently in good standing with the Commission.

CONDITIONS OF GRANT FOR AUTOMATIC AUXILIARY NTSC FACILITIES.

- A. The proposed auxiliary NTSC facilities must be for co-located transmission of DTV and NTSC.
- B. The proposed NTSC auxiliary transmission must use the same antenna location as the proposed DTV application.
- C. The proposed NTSC auxiliary facilities may not exceed the currently licensed main NTSC transmission facilities.
- D. The application must have been prepared by a licensed Professional Engineer in practice before the Commission in Broadcast services.

CONDITIONS OF GRANT FOR AUTOMATIC BROADCAST AUXILIARY SERVICE (BAS) (STL, TSL, ICR) PART 74 LICENSES.

- A. The BAS application must be to support a proposed Digital Television facility.
- B. The BAS application must otherwise meet all prior coordination requirements for operation under part 74
- C. The BAS application may serve an NTSC main or auxiliary operation provided the NTSC and DTV operation are co-located and use the same proposed BAS facility.

REVOCATION OR MODIFICATION OF AUTOMATIC GRANT

- A. Recognizing that such automatic grant places considerable responsibility on the licensee to carefully prepare and follow the terms and conditions of the grant, and it is incumbent on the license holder to not modify, change alter or abandon any facility constructed under such authority, and that considerable risk is assumed by the applicant, certain guidelines for revocation and modification must also be placed as a condition of such automatic grant.
 - 1. The applicant must build to completion, any facility covered by the Automatic Grant, within 18 months from the date of filing. Failure to construct and operate the facility within 18 months of filing shall terminate the automatic grant without further notice. No extension will be allowed without full review of the application.
 - 2. Any significant modification to the application filed automatically terminates the automatic grant.

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3. Sale, dissolution, or transfer of the NTSC license under which the automatic DTV grant application has been made shall terminate the automatic grant if the DTV facility is not operational and transmitting a minimum of four hours per day seven days per week. This shall not include changes in licensee name necessitated by business, death or inheritance provided the actual licensee persons does not otherwise change.
4. The Commission will grant all such licenses, on the condition that they may be modified, set aside or revoked as the Commission shall determine, for violation of the Rules, major defect in the application, deception or fraud by the applicant.
5. In the event that the grant creates a future circumstance, unforeseen by due diligence of the applicant, the later applicant shall bear all responsibility for correction of such circumstance, to the extent necessary to comply with the Commission's Rules.
6. All such grants are subject to full review and modification by the Commission in its role of serving the public interest.

CONCLUSION

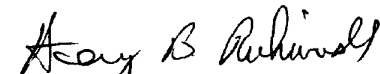
1. Grant of petitioner's request is in the public interest in that it permits the rapid deployment of DTV facilities, limited only by the Broadcast industry ability to build such facilities.
2. Grant of petitioner's request is in the public interest since it removes the administrative roadblock existing and future, that would otherwise delay implementation of and inauguration of the new Digital Television Service.
3. Grant of petitioner's request is in the public interest since it would support the Will of Congress for a rapid deployment of Digital Television service.
4. Grant of petitioner's request is in the public interest since it would relieve the Commission of excessive workload and allow the Commission to provide priority to those applications that require extensive study, comparative process, or request major changes in facilities.
5. Grant of petitioner's request is in the public interest since it would establish a fixed data base of facilities that meet the Commission's current guidelines, that can then be used to process major change applications without waiting for the DTV schedule to expire in 2004.
6. Grant of petitioner's request is in the public interest since it would be an incentive for existing NTSC stations to speed their applications and construction of the DTV service facilities, thus increasing the DTV service coverage at a rate faster than the Commission's application process would otherwise allow.

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7. Grant of petitioner's request is in the public interest in that early construction of the Digital Television Service would stimulate the public's conversion to DTV reception, and thus speed the eventual return of NTSC frequencies for re-use.
8. Grant of the petitioner's request is in the public interest because it reduces the delay between application and completion of Digital Television facilities.
9. Grant of the petitioner's request is in the public interest since it does not prevent any licensee from filing and waiting for a formal approval of facilities that do not meet the automatic grant criteria, are are a major change as defined in the Commission's Rules.
10. Grant of the petitioner's requests is in the public interest since it places no economic hardship or impact on any licensee or the Commission and would save the Commission considerable funds and resources normally necessary to promulgate the Digital Television Service.

THEREFORE: The petitioner's requests should be granted without delay.

Respectfully Submitted this 29th day of June, 1999.



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